

# NOTICES OF EXEMPT RULEMAKING

The Administrative Procedure Act requires the *Register* publication of the rules adopted by the state's agencies under an exemption from all or part of the Administrative Procedure Act. Some of these rules are exempted by A.R.S. §§ 41-1005 or 41-1057; other rules are exempted by other statutes; rules of the Corporation Commission are exempt from Attorney General review pursuant to a court decision as determined by the Corporation Commission.

## NOTICE OF EXEMPT RULEMAKING

### TITLE 2. ADMINISTRATION

#### CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

[R07-219]

#### PREAMBLE

**1. Sections Affected**

R2-20-101  
R2-20-103  
R2-20-105  
R2-20-106  
R2-20-107  
R2-20-108  
R2-20-111  
R2-20-113

**Rulemaking Action**

Amend  
Amend  
Amend  
Amend  
Amend  
Amend  
Amend  
Amend

**2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statute: A.R.S. § 16-940, *et seq.*

Implementing statute: A.R.S. § 16-956(C)

**3. The effective date of the rules:**

August 27, 2007 upon preclearance from the United States Department of Justice

**4. A list of all previous notices appearing in the *Register* addressing the exempt rule:**

Notice of Rulemaking Docket Opening: 13 A.A.R. 1048, March 23, 2007

**5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

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or

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**6. An explanation of the rule, including the agency's reasons for initiating the rule, including the statutory citation to the exemption from regular rulemaking procedures:**

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R2-20-101 sets forth definitions of terms used in the Citizens Clean Elections Act, A.R.S. § 16-940 *et seq.*, and in rules adopted by the Citizens Clean Elections Commission at A.A.C. Title 2, Chapter 20.

R2-20-103 prescribes the time and method for making certain filings and submissions and for taking certain actions.

R2-20-105 prescribes the process by which a participating candidate may be certified to receive funding.

R2-20-106 prescribes the process by which the Citizens Clean Elections Commission will distribute funds to participating candidates.

R2-20-107 prescribes the rules for candidate debates.

R2-20-108 prescribes the rules for termination of participating candidate status.

R2-20-111 prescribes the requirements of reporting contributions and expenditures.

R2-20-113 prescribes the method for calculation and issuance of equalizing funds.

Adoption and amendment of the above described rules is exempt from regular rulemaking procedures pursuant of A.R.S. § 16-956(C) of the Citizens Clean Elections Act.

**7. A reference to any study relevant to the rule that the agency reviewed and either relied on in its evaluation of or justification for the rule or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

Not applicable

**8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

**9. The summary of the economic, small business, and consumer impact:**

Not applicable

**10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**

Changes between rules as initially proposed and as finally adopted by the Commission were primarily grammatical and stylistic. Additional changes were incorporated at the suggestion of members of the public and Commissioners to clarify terms and provisions of the rules.

**11. A summary of the comments made regarding the rule and the agency response to them:**

The Commissioners solicited public comment throughout the rulemaking process. Comments were generally supportive of the revised rules. Requests for clarifications and revisions and statements in support or opposition to specific provisions were duly considered by the Commission at open meetings and were acted upon as deemed appropriate.

**12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

Not applicable

**13. Incorporations by reference and their location in the rules:**

Not applicable

**14. Was this rule previously made as an emergency rule? If so, please indicate the Register citation:**

Not applicable

**15. The full text of the rules follows:**

TITLE 2. ADMINISTRATION

CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

ARTICLE 1. GENERAL PROVISIONS

Section

R2-20-101.	Definitions
R2-20-103.	Communications: Time and Method
R2-20-105.	Certification for Funding
R2-20-106.	Distribution of Funds to Certified Candidates
R2-20-107.	Candidate Debates

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- R2-20-108. ~~Voluntary~~ Termination of Participating Candidate Status
- R2-20-111. Books and Records Requirements
- R2-20-113. Calculation of ~~Matching~~ Equalizing Funds

ARTICLE 1. GENERAL PROVISIONS

**R2-20-101. Definitions**

In addition to the definitions provided in A.R.S. §§ 16-901 and 16-961, the following shall apply to the Chapter, unless the context otherwise requires:

1. "Act" means the Citizens Clean Elections Act set forth in the Arizona Revised Statutes, Title 16, Chapter 6, Article 2.
2. "Audit" means a written report pertaining to an examination of a candidate's campaign finances that is reviewed by the Commission in accordance with A.A.C. Title 2, Chapter 20, Article 4.
3. "Campaign account" means an account designated by a political committee that is used solely for political campaign purposes as required in A.R.S. § 16-902(C).
4. "Candidate" means an individual who receives or gives consent for receipt of a contribution for the candidate's nomination for or election to any office in this state, and includes a candidate's campaign committee, the political committee designated and authorized by a candidate, or any agents or personnel of the candidate.
5. "Current campaign account" means a campaign account used solely for election campaign purposes in the present election cycle.
6. "Direct campaign purpose" includes, but is not limited to, materials, communications, transportation, supplies and expenses used toward the election of a candidate. This does not include the candidate's personal appearance, support, or support of a candidate's family member.
7. "Early contributions" means private contributions that are permitted pursuant to A.R.S. § 16-945.
8. "Election cycle," for the purposes of providing equalizing funds, means the time period between 21 days after the preceding general election and the current general election date.
9. "Examination" means an inspection by the Commission or agent of the Commission of a candidate's books, records, accounts, receipts, disbursements, debts and obligations, bank account records, and campaign finance reports related to the candidate's campaign, which may include fieldwork, or a visit to the campaign headquarters, to ensure compliance with campaign finance laws and rules.
10. "Executive Director" means the highest ranking Commission staff member, who is appointed pursuant to A.R.S. § 16-955(J) and is responsible for directing the day-to-day operations of the Commission.
- ~~10-11.~~ "Expressly advocates" means:
  - a. Conveying a communication containing a phrase such as "vote for," "elect," "re-elect," "support," "endorse," "cast your ballot for," "(name of candidate) in (year)," "(name of candidate) for (office)," "vote against," "defeat," "reject," or a campaign slogan or words that in context can have no reasonable meaning other than to advocate the election or defeat of one or more clearly identified candidates.
  - b. Making a general public communication, such as in broadcast medium, newspaper, magazine, billboard, or direct mailer referring to one or more clearly identified candidates and targeted to the electorate of that candidate(s):
    - i. That in context can have no reasonable meaning other than to advocate the election or defeat of the candidate(s), as evidenced by factors such as the presentation of the candidate(s) in a favorable or unfavorable light, the targeting, placement, or timing of the communication, or the inclusion of statements of the candidate(s) or opponents, or
    - ii. In the 16 week-period immediately preceding a general election.
  - c. A communication within the scope of subsection (10)(b) shall not be considered as one that "expressly advocates" merely because it presents information about the voting record or position on a campaign issue of three or more candidates, so long as it is not made in coordination with a candidate, political party, agent of the candidate or party, or a person who is coordinating with a candidate or candidate's agent.
12. "Extension of credit" means the delivery of goods or services or the promise to deliver goods or services to a candidate in exchange for a promise from the candidate to pay for such goods or services at a later date.
- ~~12-13.~~ "Fair market value" means the amount at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of the relevant facts.
- ~~14-14.~~ "Family member" means parent, grandparent, spouse, child, or sibling of the candidate or a parent or spouse of any of those persons.
- ~~13-15.~~ "Fixed Asset" means tangible property usable in a capacity that will benefit the candidate for a period of more than one year from the date of acquisition.
- 14-16. "Fund" means the Citizens Clean Elections Fund established pursuant to A.R.S. § 16-949(D).
- ~~15-17.~~ "Future campaign account" means a campaign account that is used solely for campaign election purposes in an election that does not include the present or prior primary or general elections.
- ~~16-18.~~ "Independent candidate" means a candidate who is registered as an independent or with no party preference or who is registered with a political party that is not eligible for recognition on the ballot.

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19. “Officeholder” means a person who has been elected to a statewide office or the legislature in the most recent election, as certified by the Secretary of State, or who is appointed to or otherwise fills a vacancy in such office.
- 17-20. “Prior campaign account” means a campaign account used solely for campaign election purposes in a prior election.
- 18-21. “Public funds” includes all funds deposited into the Citizens Clean Elections Fund and all funds disbursed by the Commission to a participating candidate.
19. ~~“Opposed” means a candidate who will appear on the ballot and:~~
- a. ~~In a primary election for state representative, a candidate who has opposition for the same office from two members of the same party or will be opposed in the general election by two or more other candidates for the same office. Such opposition in the general election can be from an independent candidate, a candidate from another party, or a candidate who is a member of a political party that is not eligible for recognition on the ballot.~~
  - b. ~~In a party primary election for any office but state representative, a candidate who has opposition for the same office from a member of the same party, or will be opposed in the general election by an independent, a candidate from another party, or a candidate who is a member of a political party that is not eligible to appear on the ballot.~~
  - e. ~~In the general election for state representative, a candidate who has at least two opponents on the ballot, competing for election in the same district.~~
  - d. ~~In the general election for any office but state representative, has at least one opponent on the ballot, competing for the same office.~~
- 20-22. “Solicitor” means a person who is eligible to be registered to vote in this state and seeks qualifying contributions from qualified electors of this state.
23. “Unopposed” means:
- a. With reference to an election for House of Representatives or Corporation Commission, opposed by a number of candidates who will appear on the ballot fewer than the number of available seats for such office in the same electoral district, as applicable; and
  - b. With reference to an election for any other office subject to the Act, opposed by no candidates who will appear on the ballot.

**R2-20-103. Communications: Time and Method**

- A. General rule: in computing any period of time prescribed or allowed by the Act or these rules, unless otherwise specified, days are calculated by calendar days, and the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday. The term “legal holiday” includes New Year’s Day, Martin Luther King Jr. Day, President’s Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, Christmas Day, and any other day appointed as a holiday for employees of the state.
- B. Special rule for periods less than seven days: when the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation.
- C. ~~Special rule for service by regular mail: whenever~~ Whenever the Commission or any person has the right or is required to do some act within a prescribed period after the service of any paper by or upon the Commission by regular mail, three calendar days shall be added to the prescribed period.
- D. ~~Special rule for service by certified mail: whenever~~ Whenever the Commission or any person is required to do some act within a prescribed period after the service of paper by or upon the Commission by overnight delivery, the time period shall begin on the date the recipient signs for the ~~certified mail~~ overnight delivery. ~~If the recipient does not date the certified mail receipt, the postmark on the certified mail receipt will be used as the date of receipt.~~
- E. The Commission shall use the address of the candidate that is provided on the application for certification filed pursuant to A.R.S. § 16-947. A candidate may designate in writing for the Commission to send written correspondence to a person other than the candidate.
- F. If possible, the Commission shall furnish a copy of all communications electronically.
- G. Delivery of subpoenas, orders and notifications to a natural person may be made by handing a copy to the person, or leaving a copy at his or her office with the person in charge thereof, by leaving a copy at his or her dwelling place or usual place of abode with a person of suitable age and discretion residing therein, by mailing a copy by ~~registered or certified mail~~ overnight delivery to his or her last known address, or by any other method whereby actual notice is given.
- H. When the person to be served is not an individual, delivery of subpoenas, orders and notifications may be made by mailing a copy by ~~registered or certified mail~~ overnight delivery to the person at its place of business or by handing a copy to a registered agent for service, or to any officer, director, or agent in charge of any office of such person, or by mailing a copy by ~~registered or certified mail~~ overnight delivery to such representative at his or her last known address, or by any other method whereby actual notice is given.

**R2-20-105. Certification for Funding**

- A. After a candidate is certified as a participating candidate, pursuant to A.R.S. § 16-947, in accordance with the procedure set forth in R2-20-104, that candidate may collect qualifying contributions only during the qualifying period.

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- B. A participating candidate must submit to the ~~secretary of state~~ Secretary of State, a list of names of persons who made qualifying contributions, an application for funding prescribed by the ~~secretary of state~~ Secretary of State, the minimum number of original reporting slips, and an amount equal to the sum of the qualifying contributions collected pursuant to A.R.S. § 16-950 no later than one week after the end of the qualifying period. A candidate may develop his or her own three-part reporting slip for qualifying contributions, or one that is photocopied or computer reproduced, if the form substantially complies with the form prescribed by the Commission. The candidate must comply with the ~~Citizens Clean Elections Act~~ and ensure that the original qualifying slip is tendered to the ~~secretary of state~~ Secretary of State, a copy remains with the candidate, and that a copy is given to the contributor.
- C. A solicitor who seeks signatures and qualifying contributions on behalf of a participating candidate shall provide his or her residential address, typed or printed name and signature on each reporting slip. The solicitor shall also sign a sworn statement on the contribution slip avowing that the contributor signed the slip, that the contributor contributed the \$5, that based on information and belief, the contributor's name and address are correctly stated and that each contributor is a qualified elector of this state. Nothing in this rule shall prohibit the use of direct mail to obtain qualifying contributions nor prohibit the contributor from also being the solicitor.
- D. The ~~secretary of state~~ Secretary of State has the authority to approve or deny a candidate for Clean Elections funding, pursuant to A.R.S. § 16-950(C) based upon the verification of the qualifying contribution forms by the appropriate county recorder. The county recorder shall disqualify any qualifying contribution forms that are:
  - 1. Unsigned by the contributor;
  - 2. Undated; or
  - 3. That the recorder is unable to verify as matching signature of a person who is registered to vote, on the date specified inside the electoral district the candidate is seeking.
- E. The ~~secretary of state~~ Secretary of State will notify the candidate and the Commission regarding the approval or denial of ~~Clean Election~~ Clean Elections funds. If the result of the random sample is from ~~ninety 90~~ percent to ~~one hundred ten 110~~ percent of the slips needed to qualify for funding, a candidate who is denied ~~clean elections~~ Clean Elections funding after all of the slips are verified is eligible to submit supplemental qualifying contribution forms for one additional opportunity to be approved for funding pursuant to subsection (G) of this rule.
- F. The amount equal to the sum of the qualifying contributions collected and tendered to the ~~secretary of state~~ Secretary of State pursuant to A.R.S. § 16-950(B) will be deposited into the fund, and the amount tendered will not be returned to a candidate if a candidate is denied ~~clean campaign~~ Clean Elections funding.
- G. In accordance with the procedure ~~pursuant to set forth at~~ A.R.S. § 16-950(C), if the ~~secretary of state~~ Secretary of State determines that the result of the five percent random sample is from 90 percent to 110 percent of the slips needed to qualify for funding, then the ~~secretary of state~~ Secretary of State shall send all of the slips for verification. If the county recorder has verified all of the candidate's signature slips and there is an insufficient number of valid qualifying contribution slips to qualify the candidate for funding, the candidate may make only one supplemental filing of additional qualifying contribution slips and qualifying contributions to the ~~secretary of state~~ Secretary of State if all of the following apply:
  - 1. The candidate files at least the minimum number of additional slips needed to qualify for funding;
  - 2. The slips are not receipts for duplicate contributions from individuals who have previously contributed to that candidate; and
  - 3. The period for filing qualifying contributions slips has not expired.
- H. The ~~secretary of state~~ Secretary of State shall forward facsimiles of all of the supplemental qualifying contribution slips to the appropriate county recorders for the county of the contributors' addresses as shown on the contribution slips. The county recorder shall verify all of the supplemental slips within 10 business days after receipt of the facsimiles and shall provide a report to the ~~secretary of state~~ Secretary of State identifying as disqualified any slips that are unsigned by the contributor or undated or that the recorder is unable to verify as matching the signature of a person who is registered to vote, on the date specified on the slip, inside the electoral district of the office the candidate is seeking. On receipt of the report of the county recorder on all supplemental slips, the ~~secretary of state~~ Secretary of State shall calculate the candidate's total number of valid qualifying contribution slips and shall approve or deny the candidate for funds.
- I. Pursuant to A.R.S. § 16-956(D), the minimum number of qualifying contributions shall be as follows:

<u>Legislature</u>	<u>220</u>
<u>Mine Inspector</u>	<u>550</u>
<u>Corporation Commissioner</u>	<u>1,650</u>
<u>Superintendent of Public Instruction</u>	<u>1,650</u>
<u>Treasurer</u>	<u>1,650</u>
<u>Attorney General</u>	<u>2,755</u>
<u>Secretary of State</u>	<u>2,755</u>
<u>Governor</u>	<u>4,410</u>

**R2-20-106. Distribution of Funds to Certified Candidates**

- A. Before the initial disbursement of funds, the Commission shall review the candidate's funding application and all relevant facts and circumstances and:

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1. Verify that the number of signatures on the candidate's nominating petitions equals or exceeds the number required pursuant to A.R.S. § 16-322 as follows:
    - a. If the application is submitted before the March 1 voter registration list is determined, the Commission shall verify that the number of signatures on the candidate's nominating petitions equals or exceeds 115 percent of the number required pursuant to A.R.S. § 16-322 based on the prior election voter registration list as determined by the ~~secretary of state~~ Secretary of State; or
    - b. If the application is submitted after the current year March 1 voter registration list is determined the Commission shall verify that the number of signatures on the candidate's nominating petitions is equal to or greater than the number required pursuant to A.R.S. § 16-322.
  2. Determine that the required number of qualifying contributions have been received and paid to the ~~secretary of state~~ Secretary of State for deposit in the Fund; and
  3. Determine whether the candidate is opposed in the election.
- B.** In making the ~~reviews, verifications, and~~ determinations described in subsection (A)(3), the Commission shall consider all relevant facts and circumstances, and it shall not be bound by election formalities such as the filing of nominating petitions by others in determining whether an applicant is opposed. Among other evidence the Commission may consider is the existence of exploratory committees or filings made to organize campaign committees of opponents and other like indicia.
- C.** The Commission may review and affirm or change its determination that the candidate is or is not opposed until the ballot for the election is established.
- D.** Within seven days after a primary election and before the ~~secretary of state~~ Secretary of State completes the canvass, the Commission shall disburse funds for general election campaigns to the participating candidates who received the greatest number of votes at each primary election, provided that the candidate with the highest number of votes out of the total number of votes, has at least two percentage points greater than the candidate with the next highest votes based on the unofficial results as of that date. In a legislative race for the Arizona House of Representatives, the Commission shall disburse funds for general election campaigns to participating candidates with the highest or second highest number of votes cast, provided such candidate received votes totaling at least two percentage points, of the total ballots cast, larger than the vote total cast for the candidate with the third highest vote total.
- E.** Promptly after the ~~secretary of state~~ Secretary of State completes the canvass, the Commission shall disburse funds for general election campaigns to all eligible participating candidates to whom payment has not been made. If a participating candidate has received funds from the Commission pursuant to subsection (D) and the canvass or recount determines that the candidate is not eligible to appear on the general election ballot, the participating candidate shall return all unused funds to the ~~fund~~ Fund within 10 days after such determination is made. That candidate shall make no ~~promissory payments~~ expenditures from the general election ~~fund~~ funds from the date of the canvass.
- F.** The Commission may refuse to distribute funds to participating candidates in cases in which the Commission finds evidence of fraud or illegal activity committed by the participating candidate.
- G.** Pursuant to A.R.S. § 16-953(A), a participating candidate shall return to the Fund all of his or her primary election funds not committed to expenditures (1) during the primary election period; and (2) for goods or services directed to the primary election. A candidate shall not be deemed to have violated A.R.S. § 16-953(A) or this subsection on account of failure to use all materials purchased with primary election funds prior to the primary election, provided such candidate exercises good faith and diligent efforts to comply with the requirement that goods and services purchased with primary election funds be directed to the primary election. Subject to A.R.S. § 16-953(A) and this subsection, a candidate may continue to use goods purchased with primary election funds during the general election period.

**R2-20-107. Candidate Debates**

- A.** The Commission shall sponsor debates among statewide and legislative office candidates prior to the primary and general elections unless there is no participating candidate in the election for a particular office.
- B.** In the primary election period, the Commission shall sponsor political party primary election debates ~~as follows for every office in which:~~
1. ~~According to political party affiliation of candidates, recognized on the official ballot, where at least one of the candidates is a participating candidate, There are at least two candidates of the political party's nomination; and~~
  2. ~~Party primary candidates are opposed in the election for the political party's nomination At least one of the candidates is a participating candidate.~~
- C.** The following candidates will not be invited to participate in debates as follows:
1. In the primary election, write-in candidates for the primary election, independent candidates, no party affiliation or unrecognized party candidates.
  2. In the general election, write-in candidates.
- D.** Pursuant to A.R.S. § 16-956(A)(2), all participating candidates certified pursuant to A.R.S. § 16-947 shall attend and participate in the debates sponsored by the Commission.
- E.** Unless exempted, if a participating candidate fails to participate in any Commission-sponsored debate, the participating candidate shall be ineligible to receive any further equalizing funds for that election. For purposes of this Section, each

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primary or general election shall be considered a separate election.

- F. A participating candidate may request to be exempt from participating in a required debate by doing the following:
  - 1. Submit a written request to the Commission at least one week prior to the scheduled debate; and
  - 2. State the reasons and circumstances justifying the request for exemption.
- G. After examining the request to be exempt, the Commission will exempt a candidate from participating in a debate if at least three Commissioners determine that the circumstances are:
  - 1. Beyond the control of the candidate;
  - 2. Of such nature that a reasonable person would find the failure to attend justifiable or excusable; or
  - 3. Good cause, as defined in A.R.S. § 16-918(E).
- H. A participating candidate who fails to participate in a required debate may submit a request for reconsideration to the Commission.
  - 1. The candidate's request for reconsideration shall:
    - a. State the reason the candidate failed to participate in the debate; and
    - b. Be submitted to the Commission no later than five business days after the date of the debate the candidate failed to attend.
  - 2. After examining the request for reconsideration, the Commission will excuse a candidate from the penalties imposed if at least three Commissioners determine that the circumstances were:
    - a. Beyond the control of the candidate;
    - b. Of such nature that a reasonable person would find the failure to attend justifiable or excusable; or
    - c. Good cause, as defined in A.R.S. § 16-918(E).
- I. ~~When a participating candidate is unopposed in the candidate's party primary election, the candidate shall be exempt from participating in a Commission-sponsored debate for the primary election. When a participating candidate is unopposed not opposed in the general election, the candidate shall be exempt from participating in a Commission-sponsored debate for the general election.~~
- J. In the event that a participating candidate is opposed in the primary election or general election but is the only candidate taking part in a primary election period or general election period debate, as applicable, the debate will be held and will consist of a 30 minute question and answer session for the single participating candidate. If more than one candidate takes part in the debate, regardless of participation status, the debate will be held in accordance with the rules established by the Commission.

**R2-20-108. ~~Voluntary~~ Termination of Participating Candidate Status**

- A. ~~Voluntary termination of participating candidate status may only occur before the end of the qualifying period. A candidate may voluntarily terminate his or her participating candidate status at any time prior to notification by the Commission that such candidate has qualified for Clean Elections funding. To withdraw from participating candidate status, a candidate shall send a letter to the Commission stating the candidate's intent to withdraw and the reason for the withdrawal. The candidate shall not accept any private monies until the withdrawal is approved by the Commission. The Commission shall act on the withdrawal request within seven days. If the Commission takes no action in the seven-day time period, the withdrawal is automatic and the candidate shall immediately begin the process of returning public funds to the Fund.~~
- B. ~~A candidate, whose withdrawal has been approved by, or occurred by lack of action of the Commission, shall:
  - 1. No longer be eligible to receive public funding.
  - 2. Return all Clean Elections funds, spent and unspent, to the Fund within 30 calendar days after he or she ceases to be a participating candidate.~~
- B. A candidate's participating candidate status shall automatically terminate if (1) the candidate fails to make such submissions to the Secretary of State as prescribed in A.A.C. R2-20-105(B) within seven days after the end of the qualifying period; or (2) the candidate is denied Clean Elections funding by the Secretary of State and the candidate is ineligible to make a supplemental filing with the Secretary of State in accordance with A.A.C. R2-20-105(G).
- C. ~~A participating candidate who withdraws prior to submitting qualifying contributions and an application for funds to the secretary of state shall use the candidate's best efforts to return all qualifying contributions collected to the contributors within 30 days of the candidate's withdrawal. If a contributor cannot be located, the qualifying contributions collected by the candidate shall be remitted to the Fund.~~
- C. A candidate whose participating candidate status has been terminated in accordance with this Section shall be ineligible to receive Clean Elections funding for that election cycle.
- D. ~~Failure to comply with the requirements of this Section may result in an enforcement action against the participating candidate.~~
- D. In the event that a candidate who has collected qualifying contributions decides not to seek certification as a participating candidate, the candidate shall return all qualifying contributions received from contributors who have not given written permission to use their qualify contributions as campaign contributions. Written permission may include a check box on the original \$5 form that authorizes a candidate to treat the qualifying contribution as a general campaign contribution if he or she decides not to participate in the Clean Elections system. If a good faith attempt to return the funds to the contributor is unsuccessful, the contributions shall be submitted to the Fund.

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**R2-20-111. Books and Records Requirements**

- A. All candidates shall maintain, at a single location within the state, the books and records of financial transactions, and other information required by A.R.S. § 16-904.
- B. All candidates shall ensure that the books and records of accounts and transactions of the candidate are recorded and preserved as follows:
1. The treasurer of a candidate's campaign committee is the custodian of the candidate's books and records of accounts and transactions, and shall keep a record of all of the following:
    - a. All contributions or other monies received by or on behalf of the candidate.
    - b. The identification of any individual or political committee that makes any contribution together with the date and amount of each contribution and the date of deposit into a campaign account.
    - c. Cumulative totals contributed by each individual or political committee.
    - d. The name and address of every person to whom any expenditure is made, and the date, amount and purpose or reason for the expenditure.
    - e. All periodic bank statements or other statements for the campaign account.
    - f. All activity related to petty cash accounts.
  2. No expenditure may be made for or on behalf of a candidate without the authorization of the treasurer or his or her designated agent.
  3. Unless specified by the contributor or contributors to the contrary, the treasurer shall record a contribution made by check, money order or other written instrument as a contribution by the person whose signature or name appears on the bottom of the instrument or who endorses the instrument before delivery to the candidate. If a contribution is made by more than one person in a single written instrument, the treasurer shall record the amount to be attributed to each contributor as specified.
  4. All contributions other than in-kind contributions and qualifying contributions must be made by a check drawn on the account of the actual contributor or by a money order or a cashier's check containing the name of the actual contributor or must be evidenced by a written receipt with a copy of the receipt given to the contributor and a copy maintained in the records of the candidate.
  5. The treasurer shall preserve all records set forth in subsection (B) and copies of all campaign finance reports required to be filed for three years after the filing of the campaign finance report covering the receipts and disbursements evidenced by the records.
  6. If requested by the attorney general, the county, city or town attorney or the filing officer, the treasurer shall provide any of the records required to be kept pursuant to this Section.
- C. Any request to inspect a candidate's records under A.R.S. § 16-958(F) shall be sent to the candidate, with a copy to the Commission, 10 or more days before the proposed date of the inspection. If the request is made within two weeks before the primary or general election, the request shall be delivered at least two days before the proposed date of inspection. Every request shall state with reasonable particularity the records sought.
1. The inspection shall occur at a location agreed upon by the candidate and the person making the request. If no agreement can be reached, the inspection shall occur at the Commission office. The inspection shall occur during the Commission's regular business hours and shall be limited to a two-hour time period.
  2. The requesting party may obtain copies of records for a reasonable fee. The Commission shall not be responsible for making copies. The person in possession of the records shall produce copies within a reasonable time of the receipt of the copying request and fees.
  3. The Commission will not permit public inspection of records if it determines that the inspection is for harassment purposes.
  4. If a person who requests to inspect a candidate's records under A.R.S. § 16-958(F) is denied such a request, the requesting party may notify the Commission. The Commission may enforce the public inspection request by issuing a subpoena pursuant to A.R.S. § 16-956(C) for the production of any books, papers, records, or other items sought in the public inspection request. The subpoena shall order the candidate to produce:
    - a. All papers, records, or other items sought in the public inspection request;
    - b. No later than two business days after the date of the subpoena; and
    - c. To the Commission's office during regular business hours.
  5. Any person who believes that a candidate or a candidate's campaign committee has not complied with this Section may appeal to Superior Court.

**R2-20-113. Calculation of ~~Matching~~ Equalizing Funds**

- A. During the primary election period, the Commission shall pay any participating candidate in the same party primary of a nonparticipating candidate, the amount of the nonparticipating candidate's expenditures in excess of the amount over the primary election spending limit, not to exceed three times the original primary election spending limit, as follows:
1. The nonparticipating candidates' expenditures, which are defined as:
    - a. Any purchase, payment, distribution, loan, advance, deposit or gift of money or anything of value made by a person for the purpose of influencing an election in this state;

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- b. A promise or agreement to make an expenditure resulting in an extension of credit; and
  - c. The value of any in-kind contribution received.
2. If an independent expenditure is made against ~~a participating candidate~~, the one or more participating candidates for a single office, each participating candidate will be eligible to receive ~~matching funds equalizing funds~~, if applicable, for the amount of the independent expenditure. The participating ~~candidate candidates~~ who was were the subject of the expenditure will be the only ~~candidate candidates~~ eligible to receive the matching funds equalizing funds, if applicable, for the cost of that independent expenditure. If so required by this subsection, the Commission may issue equalizing funds based on an independent expenditure in an amount greater than the amount of such independent expenditure.
  3. If an independent expenditure is made in favor of one or more nonparticipating candidates, all participating candidates in the party primary of the candidate favored by the independent expenditure will be eligible to receive ~~matching funds equalizing funds~~, if applicable, for the amount of the independent expenditure. If so required by this subsection, the Commission may issue equalizing funds based on an independent expenditure in an amount greater than the amount of such independent expenditure.
  4. If an independent expenditure is made in favor of a single participating candidate, all of the other participating candidates in that party primary will be eligible to receive ~~matching funds equalizing funds~~, if applicable, for the cost of that independent expenditure. If so required by this subsection, the Commission may issue equalizing funds based on an independent expenditure in an amount greater than the amount of such independent expenditure.
- B.** During the general election period, a participating candidate will receive ~~matching funds equalizing funds~~ when the opposing nonparticipating candidate has received in contributions to date, less the amount of expenditures the nonparticipating candidate made through the end of the primary election period, an amount that exceeds the general election spending limit. The Commission shall pay any participating candidate seeking the same office an amount equal to any excess over the general election spending limit, not to exceed three times the original general election spending limit, as follows:
1. The nonparticipating candidate's contributions include:
    - a. Surplus funds transferred from previous campaign accounts and deposited into the current campaign account;
    - b. Individual contributions;
    - c. \$25 or less contributions;
    - d. In-kind contributions;
    - e. Political committee contributions;
    - f. Personal monies;
    - g. Candidate or family loans; ~~and~~
    - h. Other loans;
    - i. Any contribution to a candidate to retire debt from a prior election cycle, if deposited into the current campaign account;
    - j. Any contribution received and placed in a prior, current or future campaign account during the current election cycle; and
    - k. Contributions received beginning 21 days after the date of the prior general election.
  2. In accordance with A.R.S. § 16-952, the nonparticipating candidate's contributions shall not include offsets to contributions, including a refund of a contribution to an individual contributor or to a political committee contributor.
  3. In accordance with A.R.S. § 16-952(C)(4), when a participating candidate is opposed in the general election by an independent candidate or nonparticipating candidate who was ~~unopposed~~ not opposed in the party primary, expenditures made during the primary election period by the nonparticipating candidate or independent candidate will not be included in the calculation of ~~matching funds equalizing funds~~.
  4. If an independent expenditure is made against ~~a participating candidate~~, the one or more participating candidates for a single office, each participating candidate will be eligible to receive ~~matching funds equalizing funds~~, if applicable, for the amount of the independent expenditure. The participating ~~candidate candidates~~ who was were the subject of the expenditure will be the only ~~candidate candidates~~ eligible to receive the matching funds equalizing funds, if applicable, for the cost of that independent expenditure. If so required by this subsection, the Commission may issue equalizing funds based on an independent expenditure in an amount greater than the amount of such independent expenditure.
  5. If an independent expenditure is made in favor of one or more nonparticipating candidates, all participating candidates in the ~~election~~ election(s) for that the same office office(s) will be eligible to receive ~~matching funds equalizing funds~~, if applicable, for the amount of the independent expenditure. If so required by this subsection, the Commission may issue equalizing funds based on an independent expenditure in an amount greater than the amount of such independent expenditure.
  6. If an independent expenditure is made in favor of a single participating candidate, all of the other participating candidates in the election for that office will be eligible to receive the ~~matching funds equalizing funds~~, if applicable, for the cost of that independent expenditure. If so required by this subsection, the Commission may issue equalizing funds based on an independent expenditure in an amount greater than the amount of such independent expenditure.

Notices of Exempt Rulemaking

- C. Independent expenditures made against a nonparticipating candidate during the primary or general election periods will not be considered in the calculation of ~~matching funds~~ equalizing funds for a participating candidate.
- D. In accordance with A.R.S. § 16-952(C)(6), during the primary and general election periods, expenditures promoting or opposing candidates for more than one office shall be allocated by the Commission among candidates for different offices based on the relative size or length and relative prominence of the reference to candidates for different offices. Equalizing funds shall be issued to each participating candidate, if applicable, in an amount equal to the proportion of the expenditure that is targeted at the office sought by such participating candidate. If so required by this rule, the Commission may issue equalizing funds based on an expenditure in an amount greater than the amount of such expenditure.
- ~~D.E.~~ The Commission shall cease to disburse ~~matching funds~~ equalizing funds for an election period after the Wednesday following the primary or general election day.
- F. The Commission may decline to issue equalizing funds on the basis of expenditures that the Commission determines to be of de minimis value.

Editor’s Note: Due to a clerical error the following notice, filed July 3, 2006, was not published.

**NOTICE OF EXEMPT RULEMAKING**

**TITLE 6. ECONOMIC SECURITY**

**CHAPTER 5. DEPARTMENT OF ECONOMIC SECURITY  
SOCIAL SERVICES**

[R06-512]

**PREAMBLE**

- |  |                                 |
|--|---------------------------------|
| <b><u>1. Sections Affected</u></b>     | <b><u>Rulemaking Action</u></b> |
| Chapter 5<br>Article 49<br>Appendix B. | Amend                           |
2. **The specific authority for the rulemaking, including both the authorizing statute (general) and the statute the rules are implementing (specific):**  
 Authorizing statute: A.R.S. §§ 41-1005(A)(26); 41-1954(A)(3); 46-134(A)(12); 46-805  
 Implementing statute: A.R.S. §§ 46-801 through 46-810  
 Statute authorizing the exemption: A.R.S. § 41-1005(A)(25)
  3. **The effective date of the rules:**  
 July 1, 2006. This date is consistent with statutory appropriation language regarding reimbursement rates.
  4. **A list of all previous notices appearing in the Register addressing the exempt rule:**  
 None
  5. **The name and address of agency personnel with whom persons may communicate regarding the rule:**  
 Name: Beth A. Broeker  
 Address: 1789 W. Jefferson, Site Code 837A  
 Phoenix, AZ 85007  
 or  
 P.O. Box 6123, Site Code 837A  
 Phoenix, AZ 85005  
 Telephone: (602) 542-6555  
 Fax: (602) 542-6000  
 E-mail: bbroeker@azdes.gov
  6. **An explanation of the rule, including the agency’s reason for initiating the rule, including the statutory citation to the exemption from the regular rulemaking procedures:**  
 A.R.S. § 41-1005(A)(26) gives the Department an exemption from the Administrative Procedure Act to develop rules under A.R.S. § 46-805; this statute gives the

**Notices of Exempt Rulemaking**

Department the authority to establish payment rates for child care assistance. Pursuant to a legislative appropriation, the Department is adopting new Maximum Reimbursement Rates for Child Care (to reflect changes made to the maximum provider rates the Department will pay for child care subsidies).

7. **A reference to any study that the agency relied on in its evaluation of or justification for the rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:**  
Not applicable
8. **A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of the state:**  
Not applicable
9. **The summary of the economic, small business, and consumer impact:**  
Because these rules are exempt from the Administrative Procedure Act under A.R.S. § 41-1005(A)(26), the Department did not prepare an economic impact statement.
10. **A description of the changes between the proposed rule, including supplemental notices, and final rules (if applicable):**  
Not applicable
11. **A summary of the principle comments and the agency response to them:**  
Not applicable
12. **Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**  
Not applicable
13. **Incorporations by reference and their location in the rules:**  
Not applicable
14. **Was this rule previously adopted as an emergency rule?**  
No
15. **The full text of the rules follows:**

**TITLE 6. ECONOMIC SECURITY**

**CHAPTER 5. DEPARTMENT OF ECONOMIC SECURITY  
SOCIAL SERVICES**

**ARTICLE 49. CHILD CARE ASSISTANCE**

Section  
Appendix B. Maximum Reimbursement Rates For Child Care

**ARTICLE 49. CHILD CARE ASSISTANCE**

Appendix B. Maximum Reimbursement Rates For Child Care

**ARIZONA DEPARTMENT OF ECONOMIC SECURITY  
DIVISION OF EMPLOYMENT & REHABILITATION SERVICES  
CHILD CARE ADMINISTRATION  
MAXIMUM REIMBURSEMENT RATES FOR CHILD CARE  
(effective for services provided on or after 7/1/03)**

**CENTERS**

<b>Age Group</b>	<b>District I</b>	<b>District II</b>	<b>District III</b>	<b>District IV</b>	<b>District V</b>	<b>District VI</b>
<b>Birth &lt; 1 yr:</b>						
<b>Full day</b>	<b>29.00</b>	<b>27.00</b>	<b>22.40</b>	<b>21.00</b>	<b>25.00</b>	<b>32.00</b>
<b>Part day</b>	<b>22.00</b>	<b>19.00</b>	<b>16.00</b>	<b>19.00</b>	<b>25.00</b>	<b>25.00</b>
<b>1 yr &lt; 3 yrs:</b>						
<b>Full day</b>	<b>25.58</b>	<b>24.00</b>	<b>20.00</b>	<b>18.25</b>	<b>25.00</b>	<b>20.80</b>
<b>Part day</b>	<b>19.00</b>	<b>18.16</b>	<b>15.00</b>	<b>16.00</b>	<b>15.00</b>	<b>17.60</b>

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<b>3 yrs &lt; 6 yrs:</b>						
Full day	23.20	22.00	18.00	17.00	20.00	17.60
Part day	16.00	16.00	13.02	15.50	12.40	12.20
<b>6 yrs &lt; 13 yrs:</b>						
Full day	22.00	22.00	16.80	17.00	20.00	19.00
Part day	15.00	15.00	12.00	15.00	13.33	13.00

**GROUP HOMES**

<b>Age Group</b>	<b>District I</b>	<b>District II</b>	<b>District III</b>	<b>District IV</b>	<b>District V</b>	<b>District VI</b>
<b>Birth &lt; 1 yr:</b>						
Full day	20.00	20.00	23.00	18.00	18.00	18.00
Part day	14.00	14.00	23.00	12.00	12.00	14.00
<b>1 yr &lt; 3 yrs:</b>						
Full day	20.00	20.00	22.00	17.50	18.00	18.00
Part day	14.00	15.00	13.00	12.00	11.00	14.00
<b>3 yrs &lt; 6 yrs:</b>						
Full day	20.00	20.00	22.00	16.00	18.00	16.00
Part day	13.00	15.00	13.95	12.00	10.00	14.00
<b>6 yrs &lt; 13 yrs:</b>						
Full day	17.00	20.00	16.00	16.00	18.00	16.00
Part day	12.00	13.00	13.95	11.00	10.00	14.00

**CERTIFIED FAMILY HOMES & CERTIFIED IN-HOME PROVIDERS**

<b>Age Group</b>	<b>District I</b>	<b>District II</b>	<b>District III</b>	<b>District IV</b>	<b>District V</b>	<b>District VI</b>
<b>Birth &lt; 1 yr:</b>						
Full day	20.00	17.00	17.00	16.00	17.00	16.00
Part day	12.00	10.00	10.00	8.50	10.00	8.00
<b>1 yr &lt; 3 yrs:</b>						
Full day	18.00	17.00	16.00	15.00	16.00	16.00
Part day	12.00	10.00	10.00	8.00	10.00	8.00
<b>3 yrs &lt; 6 yrs:</b>						
Full day	17.00	16.00	16.00	15.00	16.00	15.00
Part day	12.00	10.00	10.00	8.00	9.00	8.00
<b>6 yrs &lt; 13 yrs:</b>						
Full day	16.00	16.00	16.00	15.00	15.00	15.00
Part day	10.00	10.00	9.00	8.00	9.00	8.00

The actual reimbursement amount is equal to the reimbursement rate minus any DES designated co-payment. However, in no event shall the amount reimbursed exceed the lesser of the provider's actual charges or the maximum reimbursement rate minus any DES designated co-payment.

Payment Rates for Non-Certified Relative Providers (NCRPs) will be \$10.50 for Full day and \$6.00 for Part day, minus any DES designated co-payment. This rate will be paid to NCRPs statewide for care provided to children of all ages.

The maximum reimbursement rates may be increased by up to ten percent, for child care providers who are nationally accredited.

Full day = six or more hours per day. Part day = less than six hours per day

**ARIZONA DEPARTMENT OF ECONOMIC SECURITY**  
**DIVISION OF EMPLOYMENT & REHABILITATION SERVICES**  
**CHILD CARE ADMINISTRATION**  
**MAXIMUM REIMBURSEMENT RATES FOR CHILD CARE**  
**(effective for services provided on or after 7/1/06)**

**CENTERS**

<b>Age Group</b>	<b>District I</b>	<b>District II</b>	<b>District III</b>	<b>District IV</b>	<b>District V</b>	<b>District VI</b>
<b>Birth &lt; 1 yr:</b>						
Full day	30.20	27.00	22.40	21.00	30.00	32.00
Part day	22.40	19.80	18.40	19.00	25.00	25.00

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**Notices of Exempt Rulemaking**

<b>1 yr &lt; 3 yrs:</b>						
Full day	<u>26.60</u>	<u>25.00</u>	<u>20.80</u>	<u>19.00</u>	<u>28.00</u>	<u>20.80</u>
Part day	<u>20.00</u>	<u>18.16</u>	<u>18.00</u>	<u>18.00</u>	<u>15.00</u>	<u>17.60</u>
<b>3 yrs &lt; 6 yrs:</b>						
Full day	<u>23.80</u>	<u>22.09</u>	<u>20.00</u>	<u>18.00</u>	<u>20.00</u>	<u>19.00</u>
Part day	<u>17.00</u>	<u>16.00</u>	<u>15.00</u>	<u>16.00</u>	<u>12.40</u>	<u>13.00</u>
<b>6 yrs &lt; 13 yrs:</b>						
Full day	<u>23.40</u>	<u>22.00</u>	<u>17.00</u>	<u>17.00</u>	<u>20.00</u>	<u>19.00</u>
Part day	<u>16.00</u>	<u>15.00</u>	<u>14.00</u>	<u>15.00</u>	<u>13.33</u>	<u>13.00</u>

**GROUP HOMES**

<b>Age Group</b>	<b>District I</b>	<b>District II</b>	<b>District III</b>	<b>District IV</b>	<b>District V</b>	<b>District VI</b>
<b>Birth &lt; 1 yr:</b>						
Full day	<u>24.00</u>	<u>22.00</u>	<u>23.00</u>	<u>20.00</u>	<u>19.00</u>	<u>21.20</u>
Part day	<u>16.00</u>	<u>16.00</u>	<u>23.00</u>	<u>14.00</u>	<u>12.50</u>	<u>18.00</u>
<b>1 yr &lt; 3 yrs:</b>						
Full day	<u>22.00</u>	<u>22.00</u>	<u>22.00</u>	<u>18.00</u>	<u>19.00</u>	<u>21.25</u>
Part day	<u>15.00</u>	<u>16.00</u>	<u>15.00</u>	<u>12.00</u>	<u>12.00</u>	<u>17.00</u>
<b>3 yrs &lt; 6 yrs:</b>						
Full day	<u>20.00</u>	<u>20.00</u>	<u>22.00</u>	<u>18.00</u>	<u>19.00</u>	<u>18.50</u>
Part day	<u>15.00</u>	<u>16.00</u>	<u>13.95</u>	<u>12.00</u>	<u>12.00</u>	<u>16.00</u>
<b>6 yrs &lt; 13 yrs:</b>						
Full day	<u>18.00</u>	<u>20.00</u>	<u>17.00</u>	<u>18.00</u>	<u>19.00</u>	<u>18.50</u>
Part day	<u>14.00</u>	<u>15.81</u>	<u>13.95</u>	<u>12.00</u>	<u>12.00</u>	<u>17.00</u>

**CERTIFIED FAMILY HOMES & CERTIFIED IN-HOME PROVIDERS**

<b>Age Group</b>	<b>District I</b>	<b>District II</b>	<b>District III</b>	<b>District IV</b>	<b>District V</b>	<b>District VI</b>
<b>Birth &lt; 1 yr:</b>						
Full day	<u>20.00</u>	<u>19.00</u>	<u>18.00</u>	<u>18.00</u>	<u>20.00</u>	<u>18.00</u>
Part day	<u>14.00</u>	<u>12.00</u>	<u>10.00</u>	<u>10.50</u>	<u>12.00</u>	<u>10.00</u>
<b>1 yr &lt; 3 yrs:</b>						
Full day	<u>20.00</u>	<u>18.00</u>	<u>17.00</u>	<u>17.00</u>	<u>20.00</u>	<u>17.00</u>
Part day	<u>13.00</u>	<u>12.00</u>	<u>10.00</u>	<u>10.50</u>	<u>11.00</u>	<u>10.00</u>
<b>3 yrs &lt; 6 yrs:</b>						
Full day	<u>18.00</u>	<u>18.00</u>	<u>16.00</u>	<u>17.00</u>	<u>18.00</u>	<u>16.00</u>
Part day	<u>12.00</u>	<u>12.00</u>	<u>10.00</u>	<u>10.50</u>	<u>10.00</u>	<u>10.00</u>
<b>6 yrs &lt; 13 yrs:</b>						
Full day	<u>17.00</u>	<u>18.00</u>	<u>16.00</u>	<u>16.00</u>	<u>18.00</u>	<u>16.00</u>
Part day	<u>12.00</u>	<u>11.00</u>	<u>10.00</u>	<u>10.00</u>	<u>10.00</u>	<u>10.00</u>

**The actual reimbursement amount is equal to the reimbursement rate minus any DES designated co-payment. However, in no event shall the amount reimbursed exceed the lesser of the provider's actual charges or the maximum reimbursement rate minus any DES designated co-payment.**

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